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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,570	09/22/2003	Michael Togher	E3331.0587/P587	6152

7590 05/05/2005

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EXAMINER

COLBERT, ELLA

ART UNIT PAPER NUMBER

3624

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/665,570	TOGHER ET AL.	
	Examiner	Art Unit	
	Ella Colbert	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2 and 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, and 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/23/03 & 10/08/04</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. 1, 2, and 4 are pending. Claims 1 and 2 have been amended, claim 3 has been cancelled and claim 4 has been newly added in this communication filed 02/08/05 entered as Response After Non-Final Action.

2. The Objection to the Abstract has been overcome by Applicants' amendment to the Abstract

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by (US 5,297,032) Trojan et al, hereafter Trojan.

With respect to claim 1, Trojan teaches, A method of trading on a computerized trading system said method comprising: displaying a best quote which can be accepted by a trader on a trading terminal used by said trader, said best quote indicating the best price at which said trader can accept an offer to buy or sell an item of value, said best quote being a composite quote of two smaller quotes made by two other traders using said computerized trading system, each of said two smaller quotes being for a price which is at least as good as said best price; and said trader accepting said best bid (col. 2, line 63-col. 3, line 20, col. 6, lines 55-68, col. 7, line 37-col. 8, lines 51 (Table 1- col. 7 and col. 8), and col. 10, lines 19-43).

With respect to claim 2, Trojan teaches, A method for trading on a computerized trading system, said method comprising: entering a quote from a trader into the trading system, said quote including a quantity and a price; displaying said quote to other traders using the trading system; at least one of said other traders making a partial acceptance of said quote, said partial acceptance covering less than the full quantity of said quote; and thereafter canceling a remaining portion of said quote, regardless of its size (col. 1, lines 43-52, col. 2, line 63-col. 3, line 16, col. 6, lines 55-68, col. 7, lines 36-41, and col. 10, lines 44-61).

With respect to claim 4, Trojan teaches, The method of claim 1, wherein said best quote is for a predetermined quantity of said item of value (col. 7 and col. 8 –Table 1, col. 7, lines 42-63, and col. 9, line 54-col. 10, line 18).

Response to Arguments

5. Applicants' arguments filed 02/08/05 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: Trojan et al does not disclose the limitation of claim 1 that the requirement that the best quote shown be "a composite quote of two quotes made by two other traders using said computerized trading system, each of said two quotes being a price which is as least as good as said best price" has been considered but is not persuasive. Response: Trojan shows a table of bids (quotes) and the asking prices in Table 1, columns 7 and 8 and col. 8, lines 52-68 shows a composite of the security "BGEN".

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Issue no. 2: Applicants' argue: There is no indication in Trojan et al. that the quote shown is for "a predetermined quantity of the item being offered for purchase or sale" and each quote shown can be for a different quantity of the item being sold has been considered but is not persuasive. Response: Trojan in col. 7, line 55 ("reflecting 1000 shares for both buy and sell orders") is interpreted as a predetermined quantity of item being offered for purchase or sale.

Conclusion: The Examiner carefully drew up a correspondence of each of Applicants' claimed limitations and one or more referenced passages in Trojan et al.

The Examiner is entitled to give limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).<

It is suggested as a sample the following: "1. A method of trading on a computerized trading system, said method comprising:

displaying on the trading screen a best quote which can be accepted by a trader at the trading terminal used by said trader, wherein the best quote indicates the best price at which said trader can accept an offer to buy or sell an item of value; ...". Claim 2 has a similar problem. The "displaying" is not being displayed on anything.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Inquiries

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday-Thursday, 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E. Colbert
April 26, 2005